

Senate Bill No. 1007

CHAPTER 641

An act to amend Section 11656.6 of the Insurance Code, relating to workers' compensation.

[Approved by Governor September 30, 2003. Filed
with Secretary of State October 1, 2003.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1007, Speier. Workers' compensation: insurance policies.

Existing law authorizes an insurer to issue a workers' compensation policy insuring an organization or association of employers subject to specified conditions, including requirements that the organization or association file certain documents with the commissioner or a licensed workers' compensation rating organization relating to (1) the percentage of its membership engaged in a common trade or business, and (2) the naming in certain statements of members eligible for insurance. Existing law defines the term "common trade or business" for purposes of these provisions.

This bill would expand the definition of "common trade or business" to include specified types of manufacturing facilities.

The people of the State of California do enact as follows:

SECTION 1. Section 11656.6 of the Insurance Code is amended to read:

11656.6. An insurer may issue a workers' compensation policy insuring an organization or association of employers as a group if the organization or association complies with the following conditions:

(a) Files with the commissioner or a licensed workers' compensation rating organization designated by him or her the following:

(1) A copy of its articles of incorporation and bylaws or its agreement of association and rules and regulations governing the conduct of its business, all certified by the custodian of the originals thereof.

(2) A statement setting forth its reasons for desiring insurance as a group.

(3) A statement certifying that at least 75 percent of its regular membership is engaged in a common trade or business, and an agreement that the percentage of membership will be maintained during the time that a group workers' compensation policy issued to the organization or association is in force.

(4) An agreement that only those members who are engaged in a common trade or business shall be named by the organization or association in any statement to the commissioner, a licensed workers' compensation rating organization, or insurer as eligible for insurance as a member of the group, and an agreement that it will immediately notify its insurer if any member of the organization fails to remain a member in good standing in accordance with the basic law, rules, and regulations of the organization or association.

(5) A statement in writing undertaking to establish and maintain a safety committee which, by education and otherwise, will seek to reduce the incidence and severity of accidents.

(6) An agreement in writing duly executed stating that, if the insurer notifies the organization or association of the nonpayment of a premium by an insured member of the organization or association within 60 days after the premium was due, the organization or association may be liable to pay to the insurer the amount of any past due premium that does not exceed the amount of the dividends that are due to the organization or association or its members from the insurer.

However, this agreement shall not be required, nor shall an organization or association be liable for payment, unless the governing board of the organization or association and the insurer agree in writing to use dividends due for the payment of past due premiums. The organization or association shall promptly notify the insurer of the known insolvency of any member of the group plan, and shall request, upon learning of the insolvency, removal of the member from the group plan. A copy of the resolution of the governing board of the organization or association authorizing the execution of the agreement shall be filed with the commissioner or a licensed workers' compensation rating organization designated by the commissioner and with any insurer issuing a group policy.

(b) "Common trade or business," as used in this article, shall mean:

(1) In agricultural enterprises, operations in which the principal payroll of the employer develops under any combination of the classifications of the Manual of Rules, Classifications and Basic Rates of Workers' Compensation Insurance approved by the Insurance Commissioner as applicable to farms, nurserymen, cultivating or gardening of flowers, and classifications embracing other operations that may be conducted by a nonprofit cooperative association composed of producer members and combinations of nonprofit cooperative agricultural marketing associations having a central organization composed of member associations.

(2) In the building and construction industry, operations in the construction or repair of commercial or residential buildings or in



general engineering construction in which the principal payroll develops under any combination of the classifications applicable to the construction or repair as they appear in the Manual of Rules, Classifications and Basic Rates for Workers' Compensation Insurance approved by the Insurance Commissioner. Commercial buildings, as defined in this paragraph, shall mean any nonresidential buildings.

(3) In the transportation and warehousing industry, operations in which the principal payroll of the employer develops under any combination of the classifications of the Manual of Rules, Classifications and Basic Rates of Workers' Compensation Insurance approved by the Insurance Commissioner as applicable to for-hire motor carriers subject to regulation by the Public Utilities Commission and warehousemen.

(4) In the timber and lumber industry, operations in which the principal payroll of the employer develops under any combination of the classifications of the Manual of Rules, Classifications and Basic Rates of Workers' Compensation Insurance approved by the Insurance Commissioner as applicable to land clearing, logging or lumbering, log, chip, and lumber hauling, planing or molding mills, sawmills or shingle mills, veneer or veneer products manufacturing, box or box shook manufacturing, cabinet works, door, door frame, or sash manufacturing and wood fiber preparation. However, no classification applicable to for-hire motor carriers under the provisions of paragraph (3) of this subdivision shall be included in any combination of classifications authorized by this paragraph.

(5) For public agencies providing industrial, domestic, or agricultural water service, operations in which the principal payroll of the employer develops under any combination of the classifications of the Manual of Rules, Classifications and Basic Rates of Workers' Compensation Insurance approved by the Insurance Commissioner as applicable to irrigation, drainage, reclamation, or waterworks operations.

(6) For sheltered workshops and rehabilitation facilities licensed pursuant to Section 1191.5 of the Labor Code, operations in which the principal payroll of the employer develops under any combination of classifications of the Manual of Rules, Classifications and Basic Rates of Workers' Compensation Insurance approved by the Insurance Commissioner.

(7) For all other enterprises, operations in which the principal payroll develops under a single manual classification or a combination of classifications under which a group policy may be issued pursuant to subdivision (d).

(8) For manufacturing facilities as identified in Sector 31 to 33, inclusive, of the North American Industry Classification System



(NAICS), operations in which the principal payroll of the employer develops under any combination of classifications of the Manual of Rules, Classifications, and Basic Rates of Workers' Compensation Insurance approved by the Insurance Commissioner applicable to establishments engaged in the mechanical, physical, or chemical transformation of materials, substances, or components into new products.

(c) Except as provided in subdivision (d), "principal payroll," for the purpose of this section, means not less than 51 percent of the total payroll for the preceding policy year or, in the case of an employer who has no preceding full year's payroll, not less than 51 percent of his or her estimated annual payroll. Principal or estimated annual payroll shall not include the payroll of those employees set forth in the standard exceptions contained in the Manual of Rules, Classifications, and Basic Rates of Workers' Compensation Insurance approved by the Insurance Commissioner.

(d) An insurer may issue a workers' compensation policy insuring an organization or association of employers as a group if, in addition to complying with the conditions set forth in subdivision (a), the organization or association has had at least 50 percent of its present membership for at least one year prior to the issuance of the policy, and not less than 75 percent of the payroll of each employer to be insured under the group policy developed under the same two manual classifications, or either of them, for the preceding policy year or, in the case of an employer who has had no preceding full-year's payroll, not less than 75 percent of his estimated annual payroll develops under the classification or classifications. However, no classification applicable to for-hire motor carriers under the provisions of paragraph (3) of subdivision (b) shall be included in any combination of classifications authorized by this subdivision.

